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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,746	07/06/2001	Brian James Gingras	659/791	4594

7590

11/04/2003

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EXAMINER

JOLLEY, KIRSTEN

ART UNIT

PAPER NUMBER

1762

DATE MAILED: 11/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/900,746	Applicant(s) GINGRAS ET AL.	
	Examiner Kirsten C Jolley	Art Unit 1762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) 49-62 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5/27/03. 6) ☐ Other:

DETAILED ACTION

Response to Arguments

1. The 35 USC 102 and 103 rejections over EP 0 256 090 have been withdrawn in response to Applicant's arguments and amendments to the claims. The rejections over Cole et al. and WO 01/40090 are maintained for the reasons discussed below.

2. Applicant's arguments filed August 25, 2003 have been fully considered but they are not persuasive.

With regard to the 35 USC 102(e) rejections over Cole et al., Applicant argues that the Examiner has not provided the rationale or evidence required to support the assertion that Cole inherently winds a wet web. Applicant states that the Cole reference does not indicate whether the web was wetted in a wetting solution before or after being wound into a roll, and it does not necessarily follow that such articles are wound after they are wetted. Applicant's argument is not found persuasive because Cole et al. discloses in col. 23, lines that the "*finished wipes* may also be *packaged* as a roll of separable sheets" -- the term "finished wipes" requires that the wipes are completely manufactured (which includes being applied with wetting solution), and are then *packaged* as a roll. Further, in col. 39, lines 22-48, Cole et al. discloses in its section entitled "Method of Making Wet Wipes," a step 5 of "Applying a wetting composition to the substrate," followed by step 6 of "Placing the wetted substrate in roll form or in a stack and packaging the product." This passage clearly indicates that the wetting solution is applied *before* being wound into a roll. Placing the wetted substrate in roll form necessarily and inherently requires a step of winding the wet web substrate. Additionally, as to the new limitation in claim

1 of “breaking the wet web,” the Examiner notes that the web is inherently broken after winding into a roll in order to package the roll, or else the roll would be forever attached and never removed from the manufacturing apparatus. Also, there is nothing in Cole et al. to indicate that the web is not broken while it is wet.

Applicant is correct that the Examiner intended to include claim 2 in the anticipation rejection over Cole et al., and Applicant’s recognition of the mistake and the Examiner’s intended action is very much appreciated. Likewise, it appears that the Examiner mistakenly included claim 18 in the anticipation rejection over Cole et al., which should have instead been claim 17. (Claim 18 was the originally-filed claim number, instead of the renumbered claim number.) However, because the statement of reasons for rejection clearly refer to claim 17 and not 18, the Examiner has merely changed the claim number in heading of section 4 below. The Examiner apologizes for any inconvenience in mixing up claim numbers.

As to the 35 USC 102(a) rejections over WO ‘090 (Perini), Applicant argues that Perini discloses that it is critical that the web of material is dry when it is broken because it is not until after the breaking or interruption zone that the web is wetted. Thus, Applicant argues that Perini cannot anticipate independent claims 1, 31, and 39 since it does not disclose each and every element of the claims. As Applicant notes in their response, WO ‘090/Perini states “The presence of the moisture or liquid impregnating the material would make the changeover difficult or would in some cases even render it impossible, with the consequence that the winding process could not be performed continuously” (page 8, line 32 to page 9, line 4). While the Examiner acknowledges that WO ‘090 teaches that the web material should be “substantially dry” at the changeover zone, the Examiner notes that the inventors of WO ‘090 necessarily had

performed the step of breaking the web while the web was wet, or had knowledge of the claimed step, in order to determine that the step of cutting while the web was wet was difficult or impossible. The inventors of WO '090 must have tried rolling a wet leading edge of a new roll before to have known that it would produce undesirable results, and therefore the inventors of WO '090 had possession of the claimed invention prior to the filing date of the instant invention and the claimed step of breaking a wet web is not inventive. Any differences between the claimed invention and that of WO '090 must have been caused by process variables not claimed in the instant application.

Information Disclosure Statement

3. The information disclosure statement filed January 31, 2002 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. Japanese publications JP 2-91300, JP 5-209395, and JP 6-306793 have been placed in the application file, but the information referred to therein has not been considered, and the publications have been crossed through on the corresponding PTO-1449.

Specification

4. The Examiner notes that on pages 1 and 14 of the specification, the application numbers should be updated as U.S. Patent Nos. if the applications have been patented, and the remaining application numbers should be indicated as --commonly owned--.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-7, 12-15, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Cole et al. (US 6,444,214).

The claims remain rejected over Cole et al. for the reasons set forth in the prior Office action, as well as for the reasons discussed above in section 2. As to the newly added limitation in claim 1 of “breaking the wet web,” as discussed above, Cole et al. indicates that the wetting solution is applied *before* being wound into a roll. The web is inherently broken after winding into a roll in order to package the roll, or else the roll would be forever attached and never removed from the manufacturing apparatus. Also, there is nothing in Cole et al. to indicate that the web is not broken while it is wet.

7. Claims 1, 12, 14, 17, 31-34, and 39-40 are rejected under 35 U.S.C. 102(a) as being anticipated by WO 01/40090 A2.

The claims remain rejected over Cole et al. for the reasons set forth in the prior Office action, as well as for the reasons discussed above in section 2. As to the newly added limitation in claim 1 and 39 of "breaking the wet web," this limitation is discussed above in section 2.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2-11, 16, 18-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 01/40090 A2.

The claims remain rejected over WO '090 for the reasons set forth in the prior Office action, as well as for the reasons discussed above in section 2. As to the newly added limitation in claims 1 and 18 of "breaking the wet web," this limitation is discussed above with respect to the WO '090 reference in section 2.

10. Claims 13, 15, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 01/40090 A2 as applied to claims 1-12, 14, 16-19, and 21-48 above, and further in view of Cole et al. (US 6,444,214).

The claims remain rejected over WO '090 in view of Cole et al. for the reasons set forth in the prior Office action, as well as for the reasons discussed above in section 2.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Examiner notes that Deacon et al. (US 4,601,938), cited in a prior IDS, teaches in col. 7, lines 42-59, impregnating a dry web substrate with a liquid composition, then passing the wet web through a perforator and a slitter, and winds the wet web in the form of a coreless roll. Perforating and slitting the wet web meet the limitation of breaking the wet web.

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kirsten C Jolley whose telephone number is 703-306-5461 prior to December 10, 2003, and will be 571-272-1421 after December 10, 2003. The examiner can normally be reached on Monday to Thursday and every other Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P Beck can be reached on 703-308-2333 before December 10, 2003, or 571-272-1415 after December 10, 2003. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1193.

kcj



SHRIVE P. BECK
SENIOR PATENT EXAMINER
ART UNIT 1700